§10122.2-1 Weekend or Holiday Deadlines

If the date or deadline (including any applicable extension) to perform any act falls on a weekend or state holiday (as defined by Government Code §6700 and §6701), the act may be performed on the first business day after the weekend or holiday.

Note: Authority cited: Sections133, 138.4, 139.5, 5307.3, Labor Code

Reference: Sections 133, 139.5, 4637, Labor Code, Sections

6700 and 6701, Government Code, and Sections 7,
9, 10 and 11, Civil Code

§ 10127.3 Qualified Rehabilitation Representative (QRR).

The provision of vocational rehabilitation services shall be provided by individuals who meet the definition of a QRR as defined in Labor Code Section 4635 (b), except where a QRR Waiver has been granted. When an employee is determined to be medically eligible and chooses to participate in a vocational rehabilitation program, within ten days he/she is to be referred immediately to a QRR selected in agreement between the employee and claims administrator, pursuant to Labor Code Section 4637. If the agreement on a QRR cannot be reached within 15 days either party may request the Unit appoint an Independent Vocational Evaluator (IVE). The referral to the QRR shall include all pertinent and narrative medical and vocational reports to assist the QRR in the evaluation process.

Note: Authority cited: Sections 133, 138.4, 139.5, 5307.3, Labor Code

Reference: Sections 4635, 4637, 4640, Labor Code

§10127.3 (Voc. Rehab.) Revised for 15 Day Comment Period 10/02/02

§ 10131.2 Settlement of Prospective Vocational Rehabilitation

A represented employee who was injured on or after January 1, 2003 can settle prospective vocational rehabilitation services for an amount not to exceed \$10,000 in self directed vocational rehabilitation when the following conditions have been met;

- (a) The settlement of the employee's rights to prospective vocational rehabilitation services shall be set forth on the DWC Form RU-122;
- (b) Prior to entering into any settlement agreement, the attorney for the represented employee shall fully disclose and explain to the employee the nature and quality of the rights and privileges being waived; and
- (c) The "Settlement of Prospective Vocational Rehabilitation Services" shall be submitted on the DWC Form RU-122 for employees with a date of injury on or after January 1, 2003 to the correct Rehabilitation Unit office with copies to all parties.

The Rehabilitation Unit may only disapprove a settlement agreement upon a finding that receipt of rehabilitation services is necessary to return the employee to suitable gainful employment. If disapproval is not made within ten (10) days of the Rehabilitation Unit's receipt of a fully executed agreement, the agreement shall be deemed approved.

Note: Authority cited: Sections 133, 139.5 and 5307.3, Labor Code.

Reference: Sections 139.5, 4644, and 4646, Labor Code.

§ 10133.12 Form RU-94 "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions

[Form RU-94 and Instructions attached]

Note: Authority Cited: Sections 133, 139.5, and 5307.3, Labor Code
Reference: Sections 4635, 4636, and 4637, Labor Code

NOTICE OF OFFER OF MODIFIED OR ALTERNATIVE WORK

THIS SECTION COMPLETED BY EMPLOYI	ER OR CLAIMS ADMINISTRATOR:		
Employer (name of firm)	is offering you the position of a		
(name of job)			
Attach a list of the duties required of the p	osition.		
You may contact	concerning this offer. Phone No.:		
Date of offer:	Date job starts:		
Claims Administrator:	Claim Number:		
NOTICE TO EMPLOYEE Name of employe	e:		
Date offer receive	ed:		
You have 30 calendar days from receipt to ac offer, you will not be entitled to rehabilitation s	scept or reject this offer of modified or alternative work. If you reject this job services unless:		
Modified Work			
A. The proposed modification(s) to accommodate required work restrictions are inadequate. B. The modified job will not last 12 months.			
Alternative Work			
A. You cannot perform the essential functions of the job; or			
B. The job is not a regular position lasting at	least 12 months; or ess than 85% of the wages paid at the time of injury; or		
D. The job is beyond a reasonable commutin			
THIS SECTION TO BE COMPLETED BY EMP	LOYEE		
I accept this offer of Modified or Alternative	work.		
·	vork and understand that I am not entitled to vocational rehabilitation services.		
,			
	Date		
Signature			
I feel I cannot accept this offer because:			

NOTICE TO THE PARTIES

If the offer is not accepted or rejected within 30 days of the offer, the offer is deemed to be rejected by the employee.

All employees must present documents required for completion of INS Form 1-9 prior to starting modified or alternative work.

The employer or claims administrator must forward a completed copy of this agreement to the Rehabilitation Unit with a Notice of Termination (DWC Form RU-105) within 30 days of acceptance or rejection.

If a dispute occurs regarding the above offer or agreement, either party may request the Rehabilitation Unit to resolve the dispute by filing a Request for Dispute Resolution (DWC Form RU-103) at the applicable Rehabilitation Unit. The Rehabilitation Unit venue is the same as the Workers' Compensation Appeals Board. If no WCAB case exists, file with a Rehabilitation Unit at within the appropriate district office. county where the injured employee resides.

Rehabilitation Unit California Division of Workers' Compensation

Form RU-94

NOTICE OF OFFER OF MODIFIED OR ALTERNATIVE WORK

Purpose:

To document an offer of modified or alternative work by the employer at the time of injury. The form also documents the acceptance or rejection of modified or alternate work by the injured employee. The RU-94 is to be used only for injuries which occur on or after 1-1-94.

Submitted by:

The claims administrator obtains the response of the injured worker and submits the form to the Rehabilitation Unit.

When prepared:

The form is prepared at the time of the offer of modified or alternative work by the employer or claims administrator. This form is not to be used to document a plan for modified or alternate work offered subsequent to advising the worker that modified or alternative work was **not** available.

Where submitted:

Initially to the injured worker within 30 days of the acceptance or rejection of the offer, then it is submitted to the Rehabilitation Unit, together with a RU-105.

Form completion:

The employer or claims administrator completes the information in the top box. The employee completes the section so marked.

Accompanying document:

The RU-94 is submitted with a RU-105 Notice of Termination. The submitted RU-94 must also include a list of duties required of the position and wages offered.

Rehabilitation Unit action:

The Rehabilitation Unit will not take action unless the employee objects by filing a RU-103, Request for Dispute Resolution, to the Notice of Termination.

Note: Once the offer of employment is made, the employee has 30 days from the date of the offer, to accept or reject the offer. If the offer is not accepted or rejected, it is assumed the offer is rejected. The employer has the option to file a RU-105, Notice of Termination, or extend the 30-day period by mutual agreement.

§ 10133.22 Form RU-122 "Settlement of Prospective Vocational Rehabilitation Services" and Form Filing Instructions

[Form RU-122 and Instructions attached]

Note: Authority Cited: Sections 133, 138.4, 139.5, and 5307.3, Labor

<u>Code</u>

Reference: Section 139.5 and 4646 Labor Code

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REHABILITATION USE ONLY

SETTLEMENT OF PROSPECTIVE VOCATIONAL REHABILITATION SERVICES [LC § 4646 (b)]

	Claim Number:	WCAB Case No. (if any):	RU Case No. (if any):
Employee Name (La	est) (First)	(MI)	Date of Birth
address (Street)	(City)	(State)	(Zip Code)
Date of Injury		If Self Insured, Certificate N	ame or Insurer Name
Employer Name		Adjusting Agency Name (if	adjusted)
Employer Address		Claims Mailing Address	
City, State, Zip Code		City, State, Zip Code	
Employee's Attorney		Employer's Representative	
Firm Name		Firm Name	
Address		Address	
City, State, Zip Code	Phone No.	City, State, Zip Code	Phone No
Qualified Rehabilitation Rep	resentative (if any)		
Firm Name			
Address			
City, State, Zip Code		Phone No.	
n accordance with Lab			
		e the employee onal rehabilitation benefit	

Page 2 of 3

ht to prospective Vocational mployee for the sum of _, as reasonable attorney's fee. The
loyer subject to approval and als Board.
nined to the employee the nature and tled by the parties. The employee has er rehabilitation rights.
Date
Date
Date
ettlement is to be applied to his/her self- cement, training, self-employment.
Date
_Date
Date
itation Unit
ment pursuant to Labor Code § 4646 (b) lement Agreement.
Date
ment pursuant to Labor Code § 4646 (b)
Date
t agreement of vocational rehabilitation. If excuted agreement, the agreement shall be

If Vocational Rehabilitation Services were commenced:

Summary of Services Provided

Number of weeks of VRMA:			
Total Amount VRMA Paid: \$			
Total Amount of PD Supplement: \$			
Amount Paid QRR for:			
DOI's on or after 1/1/03			
Phase A: \$			
Phase B: \$			
Tivil copp i d			
Total costs of QRR services \$			
QRR Name			
Total other costs of rehabilitation services: \$			
Amount withheld for Employee's Representative, if any: \$			
If plan developed, plan type:			
Completed by: Date:			

Rehabilitation Unit California Division of Workers' Compensation

Form RU-122

SETTLEMENT OF PROSPECTIVE VOCATIONAL REHABILITATION SERVICES

Purpose:

To record the agreement between the employee and the employer to settle prospective vocational rehabilitation services for injuries on or after 1/1/03.

Submitted by:

Any party.

When Submitted:

When the parties have agreed to settle prospective vocational rehabilitation services.

Where Submitted:

To the applicable Rehabilitation Unit district office. The Rehabilitation Unit's venue is the same as the WCAB. If no WCAB case exists, file with a Rehabilitation Unit within the county where the injured employee resides.

Form Completion:

Identifying data completed by claims administrator Signature of employee, employee's representative and claims administrator

Accompanying documents:

None.

Rehabilitation Unit Action:

The Rehabilitation Unit shall either issue a determination based on the record, request additional information, or set the matter for formal conference.

Copy:

All parties

§10133.2. Pamphlets.
(a) "Help in Returning to Work —94"

Help In Returning To Work - 94

Vocational Rehabilitation Benefits for Workers Injured after January 1, 1994

What is vocational rehabilitation?

Vocational rehabilitation is a workers' compensation benefit that helps injured workers return to work.

You generally qualify for vocational rehabilitation if you can no longer do your old job, and your employer does not offer you another.

If you qualify, a plan to return you to work will usually be developed by a vocational counselor - - with assistance from you and your claims administrator, the person who is handling your claim for your employer or your employer's insurance company.

California law limits the amount of money for rehabilitation services.

How do I find out if I'm eligible for vocational rehabilitation services?

When you are off work for 90 days, your claims administrator will give the doctor

who is treating you a job description that lists the exact duties you performed at work.

Your claims administrator will ask for your help in preparing this job description. This is to make sure that your doctor has an accurate picture of your job duties

Your participation is very important, because if you do not assist, the claims administrator may send your doctor the employer's description of your job.

If you need help filling out the job description form, you may contact the Division of Workers' Compensation (DWC) Information and Assistance office. (See list for the phone number of the office nearest you.)

Once your doctor reports whether you can return to your job, you will receive a letter from the claims administrator and a copy of the doctor's final report regarding medical eligibility.

If you are unable to return to your old job, your employer will decide whether you can return to other work with your disability. You should receive a notice in about a month <u>from</u> the date you receive the notice of potential eligibility from the claims administrator.

You will not qualify for rehabilitation services if If your employer offers you work within your medical restrictions, and you reject or fail to accept the job within 30 days, your employer's offer of suitable work of the offer, you will not qualify for rehabilitation services.

What if the job my employer offered does not work out?

You may still be entitled to rehabilitation services if the job doesn't last for 12 months or

your disability prevents you from performing the tasks.

If you have concerns, talk to your employer, claims administrator, or Information and Assistance officer.

What if my employer does not offer me a job?

You will receive an offer of vocational rehabilitation services. You have 90 days to accept. You may ask for an evaluation to help you decide.

If you want services but can't start immediately, you should let your claims administrator know and ask about the possibility of delaying services.

If you do not wish rehabilitation at all, you may decline these services by signing a form. This ends your employer's obligation to provide rehabilitation services at a later date.

Can I receive cash instead of settle my vocational rehabilitation services?

No, <u>for injuries which occurred prior</u> to January 1, 2003. California law does not permit <u>prospective</u> vocational rehabilitation <u>benefits</u> <u>services</u> to be <u>trades for cash settled</u>.

Yes, for injuries which occur on or after January 1, 2003. An employer and represented employee may agree to settle rights to prospective vocational rehabilitation services with a one-time payment not to exceed \$10,000 for use in self directed vocational rehabilitation.

If I accept vocational rehabilitation, what should I expect?

You and your claims administrator can choose an agreed upon counselor who will develop a rehabilitation plan for your. This can include job modification, job placement assistance, short-term training, and self-employment possibilities - - whatever is the best way to return to work

You also have the right to request a change of counselor.

What income do I receive if I accept vocational rehabilitation?

If you are receiving temporary disability payments when you start vocational rehabilitation, you may continue receiving them until your doctor reports your condition is "permanent and stationary." When this occurs, you will then receive a maintenance allowance of up to \$246 per week. There is a 52-week limit to the maintenance allowance, so it is better for you to start your rehabilitation as soon as possible. that counts against the \$16,000 cap. It is better for you to start your rehabilitation as soon as possible. You may also receive advance payments of permanent disability benefits to supplement the maintenance allowance.

What are the limits of vocational rehabilitation?

The California Legislature has placed very strict limits on rehabilitation plans:

- * The plan must be completed within 18 months.
- * Vocational rehabilitation maintenance allowance payments are limited
- to a total of 52 weeks.
- * Once you agree to a plan, changes are limited.
- * Total cost, including maintenance allowance, counseling fees, services and expenses, are generally limited to \$16,000.

What if I'm already enrolled in a college or university?

If you are already enrolled and have made substantial progress toward a degree or certificate at a community college, <u>California</u> sState <u>#University</u>, or the University of California, you may be able to waive the services of a rehabilitation counselor. Funds normally paid for counseling may then be used to help pay for the college or university program in which you are enrolled. Contact the DWC Rehabilitation Unit for details.

What other services or benefits could I receive as part of the vocational rehabilitation benefit?

- * Transportation allowance at a rate specified by the State of California.
- * Specific costs required for your rehabilitation plan, such as the cost of retraining, supplies, tools and equipment, tuition and student fees.
 - * Reasonable additional living

expenses, such as temporary relocation costs during evaluation or training. This consists of the costs of your food and lodging when you are required to be away from home.

- * Reasonable relocation expenses if permanent relocation is required.
- * Remember, total costs cannot be more than \$16,000 except in very limited circumstances.

What are my responsibilities?

You are expected to:

- * Take an active role in your rehabilitation.
 - * Complete assignments.
- * Be on time for all appointments, classes, interviews and scheduled meetings.
- * Notify your rehabilitation counselor immediately if you are unable to keep appointments.
- * Maintain an accurate, complete travel expense log.
- * Stay in contact with and immediately notify your counselor of any problems.
- * Keep your counselor and claims administrator advised of any change of your address or phone number.
- * Be available for rehabilitation services Monday through Friday, during reasonable business hours.

You should be aware that if you do not participate fully, your maintenance allowance may be stopped.

What are the claims administrator responsibilities?

The claims administrator in a timely manner:

- * assists you in returning to work with your employer.
- * pays your benefits that are due.
- * pays for rehabilitation services and expenses that are agreed upon.
- * notifies you of changes in benefits
- * submits required paperwork to DWC
- * responds to your questions.

If your claims administrator causes a delay in the provision of services, you may be entitled to additional benefits that which could extend beyond the \$16,000 limitation. You must file a Request for Dispute Resolution (DWC Form RU-103) if you wish a written determination as to whether there was a delay.

How do I request assistance from the DWC Rehabilitation Unit?

We hope that you can resolve problems informally with your claims administrator. However, the DWC Rehabilitation Unit is the agency responsible for resolving disputes in vocational rehabilitation.

You can contact the Rehabilitation Unit by phone, or you may request assistance by completing a Request for Dispute Resolution (DWC RU-103). (See list for the phone number of the office nearest you.)

There is also a toll-free information number you may call for a recorded message - 1-800-736-7401. You may also request any forms or printed information that you may need by calling the toll free number.

Should I have an attorney represent me? How much will it cost?

Both the DWC rehabilitation consultant and the information and assistance officer are available to help at no cost to you.

If you decide you want the services of any attorney, you will be represented on matters involving your workers' compensation claim(s). Your attorney will represent you before the Workers' Compensation Appeals Board and Rehabilitation Unit. Your attorney will also represent you in proceedings before any appellate court, or any proceedings designed to execute on an award.

You should be aware that your weekly vocational rehabilitation maintenance allowance payment (VRMA) may be reduced to pay the attorney. Generally 12% of your weekly VRMA is set aside for payment of attorney fees. For example, if you are entitled to the maximum rate of \$246 per week, a 12% reduction means that you would receive \$216.48 per week. For this reason, you should discuss fees with the attorney.

What other rights do I have? You may or may not be entitled to other rights.?

The federal Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals. Qualified individuals include persons who have a physical or mental impairment that substantially limits one or more life activities and who can perform essential job functions. The employer is required to provide

a reasonable accommodation if it would not impose an "undue hardship" on the employer.

For information on the Americans with Disabilities Act, call the Equal Opportunity Commission at 1-800-USA-EEOC.

The state Department of Fair Employment and Housing (FEHA) administers California laws that which prohibit harassment or discrimination in employment, housing and public accommodations. If you feel an employer has discriminated against you and you want information, the phone number is 1-800-884-1684.

Here is how to get helpful information: are some helpful phone numbers:

This publication is intended to answer the most frequently asked questions. It may not necessarily provide a solution for your particular problem, because the specific facts of your situation may call for a different approach. The information contained here is general in nature, and not intended as a substitute for legal advice.

If you have more questions after reading this publication, contact one of the DWC Information and Assistance offices or Rehabilitation offices listed in the white pages of your telephone directory under "State Government Offices, Department of Industrial Relations". below:- or contact the web site at: www.dir.ca.gov

DISTRICT OFFICES OF THE DIVISION OF WORKERS' COMPENSATION

AGOURA HILLS Information and Assistance (818) 901–5374 or (805) 654–4701 Rehabilitation Consultant

(818) 901 5443

ANAHEIM Information and Assistance (714) 738-4038 Rehabilitation Consultant (714) 558-4581

BAKERSFIELD Information and Assistance (805) 395–2514 Rehabilitation Consultant (209) 445–5066

EUREKA Information and Assistance (707) 441–5723 Rehabilitation Consultant (916) 225–2659

FRESNO Information and Assistance (209) 445-5355 Rehabilitation Consultant (209) 445-5066

GROVER BEACH Information and Assistance (805) 481–3296 Rehabilitation Consultant (805) 568–0266

LONG BEACH

Information and Assistance (310) 590-5240 Rehabilitation Consultant (310) 590-5033

LOS ANGELES

Information and Assistance (213) 897-1446
Rehabilitation Consultant (213) 897-1475

NORWALK Information and Assistance (310) 406-7107 Rehabilitation Consultant (310) 406-2363

OAKLAND
Information and Assistance
(510) 286-1358
Rehabilitation Consultant
(415) 557-8060

PASADENA Information and Assistance (818) 578-8664 Rehabilitation Consultant (213) 897-1475

POMONA Information and Assistance (909) 623-8568 Rehabilitation Consultant (909) 623-8767

REDDING
Information and Assistance
(916) 225 2047

(916) 225-2659

SACRAMENTO
Information and Assistance
(916) 263-2741
Rehabilitation Consultant

(916)263-2930

Rehabilitation Consultant

SALINAS
Information and Assistance
(408) 443-3058
Rehabilitation Consultant
(408) 277-1102

SAN BERNARDINO Information and Assistance (909) 383-4522 Rehabilitation Consultant (909) 383-4073

SAN DIEGO Information and Assistance (619) 525-4589 Rehabilitation Consultant (619) 525-4203

SAN FRANCISCO Information and Assistance (415) 557-1954 Rehabilitation Consultant (415) 557-3915

SAN JOSE, Information and Assistance (408) 277–1292 Rehabilitation Consultant (408) 277–1102 SANTA ANA Information and Assistance (714) 558-4597 Rehabilitation Consultant (714) 558-4581

SANTA BARBARA Information and Assistance (805) 966-9872 Rehabilitation Consultant (805) 568-0266

SANTA MONICA Information and Assistance (310) 452-1188 Rehabilitation Consultant (310) 452-4166

SANTA ROSA Information and Assistance (707) 576-2452 Rehabilitation Consultant (707) 576-2427

STOCKTON
Information and Assistance
(209) 463-6201
Rehabilitation Consultant
(209) 948-3608

VAN NUYS
Information and Assistance
(818) 901–5374
Rehabilitation Consultant
(818) 901–5443

VENTURA

Information and Assistance (805) 654-4701
Rehabilitation Consultant (805) 654-4698

WALNUT CREEK Information and Assistance (510) 977-8343 Rehabilitation Consultant (510) 977-8318

ANYONE WHO KNOWINGLY FILES OR ASSISTS IN THE FILING OF A FALSE WORKERS:
COMPENSATION CLAIMS MAY BE FINED UP TO \$50,000 AND SENT TO PRISON FOR UP TO FIVE YEARS.

[Insurance Code Section 1871.4]

State of California Department of Industrial Relations Division of Workers Compensation Rehabilitation Unit

Note: Authority cited: Sections 133, 139.5, 139.5, 139.6, and 5307.3, Labor Code. Reference: Sections 139.5, <u>4646</u>, and 4636,

Labor Code.